



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2013-0465; FRL-9947-24-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from the State of Louisiana for National Ambient Air Quality Standards (NAAQS) for fine particulate matter (PM_{2.5}), lead (Pb), ozone (O₃), nitrogen dioxide (NO₂), and sulfur dioxide (SO₂). This submission addresses how the existing SIP provides for implementation, maintenance, and enforcement of the NAAQS for these pollutants (also referred to as an infrastructure SIP or i-SIP). These i-SIPs ensure that the State's SIP is adequate to meet the state's responsibilities under the Federal Clean Air Act (CAA).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2013-0465, at <http://www.regulations.gov> or via email to fuerst.sherry@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information

(CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst, (214) 665-6454, fuerst.sherry@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, (214) 665-6454, fuerst.sherry@epa.gov. To inspect the hard copy materials, please schedule an appointment with her or Bill Deese at (214) 665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” or “our” mean EPA.

I. Background

On October 17, 2006, following a periodic review of the NAAQS for PM_{2.5}, EPA revised

the PM_{2.5} NAAQS.¹ The 24-hour standard was revised to 35 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), and the annual standard was revised to 15 $\mu\text{g}/\text{m}^3$ (71 FR 61144). On December 14, 2012, we promulgated a revised primary annual PM_{2.5} NAAQS (78 FR 3086). The primary annual standard was revised to 12.0 $\mu\text{g}/\text{m}^3$, and we retained the 24-hour PM_{2.5} standard of 35 $\mu\text{g}/\text{m}^3$ (78 FR 3086). In 2008, following a periodic review of the NAAQS for Pb, we revised the NAAQS to 0.15 $\mu\text{g}/\text{m}^3$ for both the primary and secondary standards (73 FR 66964). On March 27, 2008, following a periodic review, EPA revised the primary and secondary O₃ NAAQS (73 FR 16205) to establish a new primary standard of 0.075 parts per million (ppm), expressed to three decimal places, based on a 3-year average of the fourth-highest maximum 8-hour average concentration, and revised the current 8-hour standard by making it identical to the revised primary standard.

Likewise, on February 9, 2010, EPA revised the primary national ambient air quality standard for oxides of nitrogen as measured by nitrogen dioxide (NO₂), for 1-hour standard at a level of 100 ppb, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations, to supplement the existing annual standard (75 FR 6474). EPA also established requirements for an NO₂ monitoring network that includes monitors at locations where maximum NO₂ concentrations are expected to occur, including within 50 meters of major roadways, as well as monitors sited to measure the area-wide NO₂ concentrations that occur more broadly across communities. (75 FR 6474).

Additionally, on June 22, 2010, the EPA revised the primary SO₂ NAAQS to establish a

¹ Additional information on: The history of the pollutants, its levels, forms and, determination of compliance; EPA's approach for reviewing i-SIPs; the details of the SIPs submittal and EPA's evaluation; the effect of recent court decisions on i-SIPs; the statute and regulatory citations in the Louisiana SIP specific to this review; the specific i-SIP applicable CAA and EPA regulatory citation; **Federal Register** Louisiana minor New Source Review program and EPA approval activities; and Louisiana's Prevention of Significant Deterioration (PSD) program can be found in the Technical Support Document (TSD).

new 1-hour standard, with a level of 75 ppb, based on the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations (75 FR 35520).

Each state must submit an i-SIP within three years after the promulgation of a new or revised NAAQS. Section 110(a)(2) of the CAA includes a list of specific elements the i-SIP must meet. In an effort to assist states in complying with this requirement, EPA issued guidance addressing the i-SIP elements for NAAQS.²

The Secretary of the Louisiana Department of Environmental Quality (LDEQ) submitted i-SIP revisions to address the revised NAAQS.

With the exception of the certain portions that pertain to interstate transport, EPA is proposing to approve the Louisiana i-SIP submittals for these pollutant NAAQS.³ The exceptions are (1) the portions of the 2008 ozone NAAQS submittal that pertain to interstate transport of Louisiana emissions which will significantly contribute to nonattainment of the NAAQS in other states, (2) the portion of the 2010 SO₂ NAAQS submittal that pertains to interstate transport of Louisiana emissions to other states, and (3) the portions which will interfere with visibility protection measures in other states for the 2006 and 2012 PM_{2.5}, 2008 Pb, 2008 O₃, 2010 NO₂, and 2010 SO₂ NAAQS. We will take separate action on the portions of the 2008 ozone and 2010 SO₂ NAAQS submittal that pertain to significant contribution to nonattainment or interference with maintenance of the NAAQS in other states. We have disapproved portions of the Louisiana Regional Haze Plan submittal that pertain to interference

²“Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2),” Memorandum from Stephen D. Page, September 13, 2013.

³Additional information on: The history of the priority pollutants, their levels, forms and, determination of compliance; EPA’s approach for reviewing i-SIPs; the details of the SIP submittal and EPA’s evaluation; the effect of recent court decisions on i-SIPs; the statute and regulatory citations in the Louisiana SIP specific to this review; the specific i-SIP applicable CAA and EPA regulatory citations; Federal Register Notice citations for Louisiana SIP approvals; Louisiana’s minor New Source Review program and EPA approval activities; and, Louisiana’s Prevention of Significant Deterioration (PSD) program can be found in the Technical Support Document (TSD).

with visibility protection measures in other states (77 FR 39425). LDEQ and EPA are currently working on a revised Louisiana Regional Haze Plan.

II. EPA's Evaluation of Louisiana's NAAQS Infrastructure Submissions

Below is a summary of EPA's evaluation of the Louisiana i-SIP for each applicable element of 110(a)(2) A-M⁴. Louisiana provided a demonstration of how the existing Louisiana SIP meets the requirements of the 2006 PM_{2.5} NAAQS, on May 11, 2011; 2008 Pb NAAQS on October 14, 2011; 2008 O₃, 2010 NO₂, 2010 SO₂ NAAQS on June 7, 2013 and the 2012 PM_{2.5} NAAQS on December 16, 2015. The 2006 PM_{2.5}, 2008 Pb, 2008 O₃, 2010 NO₂ and 2010 SO₂ SIP submissions are complete by operation of law.⁵ The 2012 PM_{2.5} submission was reviewed and determined to be complete.

(A) Emission limits and other control measures: The SIP must include enforceable emission limits and other control measures, means or techniques, schedules for compliance and other related matters as needed to implement, maintain and enforce each of the NAAQS.⁶ The Louisiana Air Control Law found in the Louisiana Environmental Quality Act at Louisiana Revised Statute (La R.S.)30:2054 provides the Secretary of the Department of Environmental Quality with broad legal authority. The Secretary can adopt emission standards and compliance schedules which are applicable to regulated entities; emission standards and limitations and any other measures necessary for attainment and maintenance of national standards. The Secretary

⁴ A detailed discussion of our evaluation can be found in the TSD for this action. The TSD can be accessed through www.regulations.gov (e-docket EPA-R06-OAR-2013-0465).

⁵ These SIP submissions became complete by operation of law on November 11, 2012 (2006 PM_{2.5}), April 14, 2012 (2008 Pb), and December 7, 2013 (2008 O₃, 2010 NO₂, and 2010 SO₂). *See* CAA section 110(k)(1)(B).

⁶ The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2006 PM_{2.5}, 2008 Pb, 2008 O₃, 2010 NO₂, 2010 SO₂ or 2012 PM_{2.5} NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

can also enforce applicable laws, regulations, standards and compliance schedules, and seek injunctive relief. This authority has been employed in the past to adopt and submit multiple revisions to the Louisiana State Implementation Plan. The approved SIP for Louisiana is documented at 40 CFR part 52.970, subpart T.⁷ LDEQ's air quality rules and standards are codified at Title 33, Part III of the Louisiana Administrative Code (LAC). Numerous parts of the regulations codified into 33 LAC necessary for implementing and enforcing the NAAQS have been adopted into the SIP.⁸

(B) Ambient air quality monitoring/data system: The SIP must provide for: establishment and implementation of ambient air quality monitors, collection and analysis of ambient air quality data, and authority to provide such data to EPA upon request.

The La R.S. Chapter 2 provides LDEQ with the authority to collect air quality monitoring data, quality-assure the results, and report the data. LDEQ maintains and operates a monitoring network to measure levels of the pollutants in accordance with EPA regulations specifying siting and monitoring requirements. All monitoring data is measured using EPA approved methods and subject to the EPA quality assurance requirements. LDEQ submits all required data to EPA, following the EPA regulations. The monitoring network was approved into the SIP and it undergoes recurrent annual review by EPA.⁹ In addition, LDEQ conducts a recurrent assessment of its monitoring network every five years, as required by EPA rules. The most recent of these 5-year monitoring network assessments was conducted by LDEQ and approved by EPA.¹⁰ The LDEQ website provides the monitor locations and posts past and current concentrations of

⁷<http://www.ecfr.gov/cgi-bin/text-idx?SID=6e98cdf87e1b896da1b0a8cc2d2f69d6&mc=true&node=sp40.3.52.t&rgn=div6>

⁸ See the TSD for additional information.

⁹ A copy of the 2015 Annual Air Monitoring Network Plan and EPA's approval letter are included in the docket for this proposed rulemaking.

¹⁰ A copy of LDEQ's 2010 5-year ambient monitoring network assessment and EPA's approval letter are included in the docket for this proposed rulemaking.

criteria pollutants measured in the State's network of monitors.¹¹

(C) Program for enforcement of control measures: The SIP must include the following three elements: (1) a program providing for enforcement of the measures in paragraph A above; (2) a program for the regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (i.e., state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question).¹²

(1) Enforcement of SIP Measures. As noted in (A), the state statutes provide authority for the LDEQ and its Secretary to enforce the requirements of the LAC, and any regulations, permits, or final compliance orders. These statutes also provide the LDEQ and its Secretary with general enforcement powers. Among other things, they can file lawsuits to compel compliance with the statutes and regulations; commence civil actions; issue field citations; conduct investigations of regulated entities; collect criminal and civil penalties; develop and enforce rules and standards related to protection of air quality; issue compliance orders; pursue criminal prosecutions; investigate, enter into remediation agreements; and issue emergency cease and desist orders. The LAC also provides additional enforcement authorities and funding mechanisms.

(2) Minor New Source Review. The SIP is required to include measures to regulate construction and modification of stationary sources to protect the NAAQS. The Louisiana minor

¹¹ see <http://airquality.deq.louisiana.gov/> and <http://www.deq.louisiana.gov/portal/DIVISIONS/Assessment/AirFieldServices/AmbientAirMonitoringProgram/AmbientAirMonitoringDataandReports.aspx>

¹² As discussed in further detail in the TSD.

NSR permitting requirements are approved as part of the SIP.¹³

(3) Prevention of Significant Deterioration (PSD) permit program. The Louisiana PSD portion of the SIP covers all NSR regulated pollutants and has been approved by EPA.¹⁴

(D)(i) Interstate Pollution Transport: The i-SIP must prohibit emissions within Louisiana from contributing significantly to the nonattainment of the NAAQS in other states, and from interfering with the maintenance of the NAAQS in other states (CAA(a)(2)(D)(i)(I)). The SIP must also prohibit emissions within Louisiana both from interfering with measures required to prevent significant deterioration in other states and from interfering with measures required to protect visibility in other states (CAA(a)(2)(D)(i)(II)).

Fine Particulate Matter: Previously we approved the portion of Louisiana's 2006 PM_{2.5} NAAQS i-SIP which addressed the requirement that emissions within Louisiana be prohibited from contributing to the nonattainment of the NAAQS in other states, and from interfering with the maintenance of the NAAQS in other states (79 FR 4436). We are not acting on the nonattainment/maintenance component for the 2012 PM_{2.5} NAAQS at this time. We expect to propose an action at a later date.

Based on information presented in this submission, we are approving the portion of the i-SIP submittal for both the 2006 PM_{2.5} NAAQS and the 2012 PM_{2.5} NAAQS which addresses the prevention of interference with PSD programs in other states. Louisiana has a fully acceptable PSD program. The program regulates all NSR pollutants, including greenhouse gas (GHG)

¹³ EPA is not proposing to approve or disapprove the existing Louisiana minor NSR program to the extent that it may be inconsistent with EPA's regulations governing this program. EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for EPA to approve the infrastructure SIP for element C (e.g., 76 FR 41076-41079, July 13 2011). EPA believes that a number of states may have minor NSR provisions that are contrary to the existing EPA regulations for this program. The statutory requirements of section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs.

¹⁴ As discussed further in the TSD.

which prevents significant deterioration in nearby states. Since Louisiana's Regional Haze Plan was not fully approved, we are disapproving the portion of the i-SIP which addresses the prevention of interference with measures required to protect visibility in other states for both the 2006 PM_{2.5} NAAQS and the 2012 PM_{2.5} NAAQS. We cannot ensure that Louisiana emissions will not interfere with visibility protection measures in other States.

Lead: We propose to approve the portion of the submittal which addresses the requirement that emissions within Louisiana be prohibited from contributing to the nonattainment of the Pb NAAQS in other states, and from interfering with the maintenance of the Pb NAAQS in other states. The physical properties of Pb, which is a metal and very dense, prevent Pb emissions from experiencing a significant degree of travel in the ambient air. No complex chemistry is needed to form Pb or Pb compounds in the ambient air; therefore, ambient concentrations of Pb are typically highest near Pb sources. More specifically, there is a sharp decrease in ambient Pb concentrations as the distance from the source increases. According to EPA's report entitled *Our Nation's Air: Status and Trends Through 2010*, Pb concentrations that are not near a source of Pb are approximately 8 times less than the typical concentrations near the source.¹⁵ There are no areas within the State of Louisiana designated as nonattainment with respect to the 2008 lead NAAQS. LDEQ's 2015 ambient monitoring plan provided information on significant lead sources and their location. There are two significant sources of Pb emissions within the state that emit more than Pb in amounts equal to or exceeding 0.5 tons per year and no sources within two miles of a neighboring state line.

We are also proposing to approve the portion pertaining to the prevention of significant deterioration in other states for lead, as Louisiana has a fully acceptable PSD program. The

¹⁵ <http://www.epa.gov/airtrends/2011/report/fullreport.pdf>

program regulates all NSR pollutants, including greenhouse gas (GHG) which prevents significant deterioration in nearby States.

Significant impacts from Pb emissions from stationary sources are limited to short distances from emitting sources, therefore, visibility is not effected by lead emissions¹⁶. Given this information, we propose to approve the portion of the Pb i-SIP submittal related to the protection of visibility in other states.

Ozone: At this time we are not proposing action on the i-SIP submittals which address the prevention of emissions which significantly contribute to the nonattainment of the ozone NAAQS in other states, and the interference with the maintenance of the ozone NAAQS in other states. We plan to act on this portion of the i-SIP in a separate action.

Based on information presented in this submission, we are proposing to approve the portion of the submittal related to the prevention of significant deterioration in other states, as Louisiana has a fully acceptable PSD program. The program regulates all NSR pollutants, including greenhouse gas (GHG) which prevents significant deterioration in nearby states. Since Louisiana's Regional Haze Plan was not fully approved, we also are disapproving the portion of the submittal related to the protection of visibility in other states.

Nitrogen Dioxide: We propose to approve the portion of the submittal which addresses the prevention of emissions which significantly contribute to the nonattainment of the NO₂ NAAQS in other states and interfere with the maintenance of the NO₂ NAAQS in other states. On February 17, 2012, EPA designated the entire country as "unclassifiable/attainment" for the 2010 NO₂.¹⁷ The available air quality data show that all areas in the country meet the 2010 NO₂ NAAQS for 2008- 2010. No state or tribal entity recommended an area be designated

¹⁶ More information about this is provided in the TSD.

¹⁷ 77 FR 9532, February 17, 2012

“nonattainment.” As listed in our NO₂ Design Values report,¹⁸ only one maintenance area exists for the prior annual NO₂ NAAQS (Los Angeles, California). With no nonattainment or maintenance areas in surrounding states, Louisiana does not significantly contribute to nonattainment or maintenance of these NAAQS in any of the contiguous states. As further evidence that Louisiana’s NO₂ emissions do not contribute to nonattainment or maintenance of NAAQS, we reviewed more recent monitoring data for NO₂ throughout the United States. Using previous EPA methodology,¹⁹ we evaluated specific monitors identified as having nonattainment and or maintenance problems, which we refer to as “receptors”. We identify nonattainment receptors as any monitor that violated the NO₂ NAAQS in the most recent three year period. Meanwhile, we identify NO₂ maintenance receptors as any monitor that violated the NO₂ NAAQS in either of the prior monitoring cycles (2010-2012 and 2011-2013), but attained in the most recent monitoring cycle (2012-2014). During the three most recent design value periods of 2010 through 2012, 2011 through 2013 and 2012 through 2014, we found no monitors violating the 2010 NO₂ NAAQS in the US.

We are approving the portion of the submittal related to the prevention of significant deterioration in other states, as Louisiana has a fully acceptable PSD program. The program regulates all NSR pollutants, including greenhouse gas (GHG) which prevents significant deterioration in nearby states. Since Louisiana’s Regional Haze Plan was not fully approved, we also are not approving the portion of the submittal related to the protection of visibility in other states.

Sulfur Dioxide: At this time we not taking action on the portion of the submittal which

¹⁸ <http://epa.gov/airtrends/values.html>

¹⁹ See NOx SIP call, 63 FR 57371 (October 27, 1998); CAIR, 7025172 (May 12, 2005; and Transport Rule or Cross-State Air Pollution Rule 76 FR 48208 (August 8, 2001).

addresses the prevention of emissions which significantly contribute to the nonattainment of the SO₂ NAAQS in other states and interfere with the maintenance of the SO₂ NAAQS in other states. We expect to take action on this portion of the SIP submittal at a later time.

(D)(ii) Interstate Pollution Abatement and International Air Pollution: In addition, states must comply with the requirements listed in sections 115 and 126 of the CAA which were designed to aid in the abatement of interstate and international pollution (CAA 110(a)(2)(D)(ii)). Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. Louisiana's PSD program contains the element pertaining to notification to neighboring states of the issuance of PSD permits. Section 115 relates to international pollution abatement. As there are no findings by EPA that air emissions originating in Louisiana affect other countries, we propose to approve the portions of the i-SIPs pertaining to CAA section 110(a)(2)(D)(ii).

(E) Adequate authority, resources, implementation, and oversight: The SIP must provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) compliance with requirements relating to state boards as explained in section 128 of the CAA; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out. Both elements (A) and (E) address the state have adequate authority to implement and enforce the SIP without legal impediments.

The i-SIP submissions for these pollutants describe the SIP regulations governing the various functions of personnel within the LDEQ, including the administrative, technical support,

planning, enforcement, and permitting functions of the program.

With respect to funding, La R.S. 30:2011 and the SIP require LDEQ to establish an emissions fee schedule for sources in order to fund the reasonable costs of administering various air pollution control programs and authorizes LDEQ to collect additional fees necessary to cover reasonable costs associated with processing of air permit applications. EPA conducts periodic program reviews to ensure that the state has adequate resources and funding to, among other things, implement and enforce the SIP.

As required by the CAA and the SIP, the majority of the members that compose any board or body which approves permits or enforcement orders must not derive any “significant portion” of their income from persons subject to permits and enforcement orders or persons who appear before the board on issues related to the CAA or the Louisiana Air Quality Rules (La. R.S. 2014.1). The members of the board or body, or the head of an agency with similar powers, are required to adequately disclose any potential conflicts of interest.

Louisiana has not delegated any authority to implement any of the provisions of its plan to local governmental entities. The LDEQ acts as the primary air pollution control agency.

(F) Stationary source monitoring system: The SIP must provide for the establishment of a system to monitor emissions from stationary sources and to submit periodic emission reports. It must require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from such sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources. It shall require that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

LAC 33:III Chapter 9 authorizes the LDEQ to require persons engaged in operations which result in air pollution to monitor or test emissions and to file reports containing information relating to the nature and amount of emissions. There are also SIP- approved state regulations pertaining to sampling and testing and requirements for reporting of emissions inventories (60 FR 02014). In addition, SIP-approved rules establish general requirements for maintaining records and reporting emissions.

The LDEQ uses this information, in addition to information obtained from other sources, to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with SIP-approved regulations and additional EPA requirements. The SIP requires this information be made available to the public. Provisions concerning the handling of confidential data and proprietary business information are included in the SIP-approved regulations. These rules specifically exclude from confidential treatment any records concerning the nature and amount of emissions reported by sources.

(G) Emergency authority: The SIP must provide the LDEQ with authority to restrain any source from causing imminent and substantial endangerment to public health or welfare or the environment. The SIP must include an adequate contingency plan to implement LDEQ's emergency authority.

La R.S 30:2011.D.15 provides LDEQ with the required authority to address environmental emergencies, and LDEQ has contingency plans to implement the emergency episode provisions in the SIP. The LDEQ promulgated the "Prevention of Air Pollution Emergency Episodes," which includes contingency measures, and these provisions were approved into the SIP in 1989 (54 FR 9783). The episode criteria and contingency measures are

found in 33 LAC Chapter 56.

Louisiana has general emergency powers to address any possible dangerous air pollution episode if necessary to protect the environment and public health.

(H) Future SIP revisions: States must have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

La R.S. 30:2011 authorizes the LDEQ to revise the Louisiana SIP, as necessary, to account for revisions of an existing NAAQS, establishment of a new NAAQS, to attain and maintain a NAAQS, to abate air pollution, to adopt more effective methods of attaining a NAAQS, and to respond to EPA SIP calls concerning NAAQS adoption or implementation.

(I) Nonattainment areas: The CAA section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas.

However, as noted earlier, EPA believes that nonattainment area requirements should be treated separately from the infrastructure SIP requirements. The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. Instead, EPA will take action on part D attainment plan SIP submissions through a separate rulemaking process governed by the requirements for nonattainment areas, as described in part D.²⁰

(J) Consultation with government officials, public notification, PSD and visibility protection: The SIP must meet the following four CAA requirements: (1) those listed in section

²⁰ This infrastructure SIP rulemaking will not address the Louisiana program for provisions related to nonattainment areas, since EPA considers evaluation of these provisions to be outside the scope of infrastructure SIP actions.

121 of the CAA, relating to interagency consultation; (2) those listed in section 127, relating to public notification of NAAQS exceedances and related issues; (3) prevention of significant deterioration of air quality and (4) visibility protection.

(1) *Interagency consultation*: As required by the LAC, there must be a public hearing before the adoption of any regulations or emission control requirements, and all interested persons are given a reasonable opportunity to review the action that is being proposed and to submit data or arguments, either orally or in writing, and to examine witnesses testifying at the hearing (La R.S. 30:2011). In addition, the LAC provides the LDEQ the power and duty to establish cooperative agreements with local authorities, and consult with other states, the federal government and other interested persons or groups in regard to matters of common interest in the field of air quality control (La. R.S. 30:2032). Furthermore, the Louisiana PSD SIP rules mandate that the LDEQ provide for public participation and notification regarding permitting applications to any other state or local air pollution control agencies, local government officials of the city or county where the source will be located, tribal authorities, and Federal Land Manager (FLMs) whose lands may be affected by emissions from the source or modification (LAC 33:III.509). Additionally, the State's PSD SIP rules require the LDEQ to consult with FLMs regarding permit applications for sources with the potential to impact Class I Federal Areas. The SIP also includes a commitment to consult continually with the FLMs on the review and implementation of the visibility program. Louisiana recognizes the expertise of the FLMs in monitoring, as well as new source review applicability analyses for visibility. The State has agreed to notify the FLMs of any advance notification or early consultation with a new or modifying source prior to the submission of a permit application. Likewise, the State's Transportation Conformity SIP rules provide for interagency consultation, resolution of conflicts,

and public notification.

(2) *Public Notification:* On January 10, 1980, the Governor submitted final revisions to the ambient monitoring portion of the plan. These revisions were included into the SIP on August 6, 1981 (46 FR 40005). This portion of the SIP includes requirements for public notification of information related to air quality standards violation included in Part 51 in order to meet the requirements of Section 127 of the Act, requiring the LDEQ to regularly notify the public of instances or areas in which any NAAQS are exceeded. In addition, as discussed for infrastructure element B above, the LDEQ air monitoring website provides quality data for each of the monitoring stations in Louisiana; this data is provided instantaneously for certain pollutants, such as ozone. The website also provides information on the health effects of lead, ozone, particulate matter, and other criteria pollutants.

(3) *PSD and Visibility Protection:* The PSD requirements for this element are the same as those addressed under element (C) above. As was mentioned earlier, the State has a PSD program, so this requirement has been met. The Louisiana SIP requirements relating to visibility and regional haze are not affected when EPA establishes or revises a NAAQS. Therefore, EPA believes that there are no new visibility protection requirements due to the revision of the NAAQS, and consequently there are no newly applicable visibility protection obligations pursuant to infrastructure element (J).

(K) *Air quality and modeling/data:* The SIP must provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request.

The LDEQ has the power and duty, under La R.S. 30:2011 *et seq.* to develop facts and investigate providing for the functions of environmental air quality assessment. Past modeling

and emissions reductions measures have been submitted by the State and approved into the SIP. Additionally, Louisiana has the ability to perform modeling for primary and secondary NAAQS on a case by case permit basis consistent with their SIP-approved PSD rules and with EPA guidance.

The La R.S. authorizes and requires LDEQ to cooperate with the federal government and local authorities concerning matters of common interest in the field of air quality control, thereby allowing the agency to make such submissions to the EPA.

(L) Permitting Fees: The SIP must require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to Title V of the CAA, relating to operating permits, is approved by EPA.

The State has met this requirement as it has a fully developed fee system in place which is outlined in LAC:III Chapter 2 and is approved as part of the SIP. See element (E) above for the description of the mandatory collection of permitting fees outlined in the SIP.

(M) Consultation/participation by affected local entities: The SIP must provide for consultation and participation by local political subdivisions affected by the SIP.

See the discussion for element (J) above for a description of the SIP's public participation process, the authority to advise and consult, and the PSD SIP's public participation requirements. Additionally, the state noted that La R.S. 30: 2011(D)(21) also requires initiation of cooperative action between local authorities and the LDEQ, between one local authority and another, or among any combination of local authorities and the LDEQ for control of air pollution in areas

having related air pollution problems that overlap the boundaries of political subdivisions, and entering into agreements and compacts with adjoining states and Indian tribes, where appropriate. The transportation conformity component of the Louisiana SIP requires that interagency consultation and opportunity for public involvement be provided before making transportation conformity determinations and before adopting applicable SIP revisions on transportation-related issues. (LAC 33:III1434)

III. Proposed Action

EPA is proposing to approve in part the May 11, 2011, October 14, 2011, June 7, 2013 and December 16, 2015 infrastructure SIP submissions from Louisiana, which address the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2006 PM_{2.5}, 2008 Pb, 2008 O₃, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS. The table below outlines the specific actions EPA is proposing to take.

Proposed Action on Louisiana Infrastructure SIP Submittal for various NAAQS

Element	2006 PM _{2.5}	2008 Pb	2008 Ozone	2010 NO ₂	2010 SO ₂	2012 PM _{2.5}
(A): Emission limits and other control measures	A	A	A	A	A	A
(B): Ambient air quality monitoring and data system	A	A	A	A	A	A
(C)(i): Enforcement of SIP measures	A	A	A	A	A	A
(C)(ii): PSD program for major sources and major modifications	A	A	A	A	A	A
(C)(iii): Permitting program for minor sources and minor modifications	A	A	A	A	A	A
(D)(i)(I): Contribute to nonattainment/interfere with maintenance of NAAQS (requirements 1 and 2)	A*	A	No action	A	No action	No action
(D)(i)(II): PSD (requirement 3)	A	A	A	A	A	A
(D)(i)(II): Visibility Protection (requirement 4)	D	A	D	D	D	D
(D)(ii): Interstate and International Pollution Abatement	A	A	A	A	A	A
(E)(i): Adequate resources	A	A	A	A	A	A
(E)(ii): State boards	A	A	A	A	A	A
(E)(iii): Necessary assurances with respect to local agencies	A	A	A	A	A	A
(F): Stationary source monitoring system	A	A	A	A	A	A
(G): Emergency power	A	A	A	A	A	A
(H): Future SIP revisions	A	A	A	A	A	A
(I): Nonattainment area plan or plan revisions under part D	+	+	+	+	+	+
(J)(i): Consultation with government officials	A	A	A	A	A	A
(J)(ii): Public notification	A	A	A	A	A	A
(J)(iii): PSD	A	A	A	A	A	A
(J)(iv): Visibility protection	+	+	+	+	+	+
(K): Air quality modeling and data	A	A	A	A	A	A
(L): Permitting fees	A	A	A	A	A	A
(M): Consultation and participation by affected local entities	A	A	A	A	A	A

Key to Table 1: Proposed action on LA infrastructure SIP submittals for various NAAQS

A- Approve

A*- Approved at an earlier date

+/- Not germane to infrastructure SIPs

No action- EPA is taking no action on this infrastructure requirements

NA- Not applicable

D- Disapprove

Based upon review of the state's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in these submissions or referenced in Louisiana's SIP, EPA believes that Louisiana has the infrastructure in place to address all applicable required elements of sections 110(a)(1) and (2) (except as noted in table above) to

ensure that the 2006 PM_{2.5}, 2008 Pb, 2008 O₃, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS are implemented in the state.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Interstate transport of pollution, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 18, 2016.

Ron Curry,
Regional Administrator, Region 6.

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